

**REPORT OF THE AUDIT OF THE
BREATHITT COUNTY
SHERIFF'S SETTLEMENT - 2008 TAXES**

**For The Period
May 03, 2008 Through April 15, 2009**



**CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS
www.auditor.ky.gov**

**209 ST. CLAIR STREET
FRANKFORT, KY 40601-1817
TELEPHONE 502.564.5841
FACSIMILE 502.564.2912**

EXECUTIVE SUMMARY
AUDIT EXAMINATION OF THE
BREATHITT COUNTY
SHERIFF'S SETTLEMENT - 2008 TAXES

For The Period
May 03, 2008 Through April 15, 2009

The Auditor of Public Accounts has completed the audit of the Sheriff's Settlement - 2008 Taxes for the Breathitt County Sheriff for the period May 03, 2008 through April 15, 2009. We have issued an unqualified opinion on the financial statement taken as a whole. Based upon the audit work performed, the financial statement is presented fairly in all material respects.

Financial Condition:

The Sheriff collected taxes of \$3,140,575 for the districts for 2008 taxes, retaining commissions of \$130,682 to operate the Sheriff's office. The Sheriff distributed taxes of \$2,996,073 to the districts for 2008 taxes. Taxes of \$11,482 are due to the districts from the Sheriff.

Report Comments:

- The Sheriff Should Distribute 10% Add-On Fees On A Monthly Basis
- The Sheriff Had A Deficit of \$9,302 In His 2007 Tax Account
- The Sheriff's Office Lacks Adequate Segregation Of Duties

Deposits:

The Sheriff's deposits as of November 10, 2008 were exposed to custodial credit risk as follows:

- Uncollateralized and Uninsured \$1,188,391

The Sheriff's deposits were covered by FDIC insurance and a properly executed collateral security agreement, but the bank did not adequately collateralize the Sheriff's deposits in accordance with the security agreement.

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

To the People of Kentucky

Honorable Steven L. Beshear, Governor

Jonathan Miller, Secretary

Finance and Administration Cabinet

Honorable Jason Richardson, Breathitt County Judge/Executive

Honorable Ray Clemons, Breathitt County Sheriff

Members of the Breathitt County Fiscal Court

Independent Auditor's Report

We have audited the Breathitt County Sheriff's Settlement - 2008 Taxes for the period May 03, 2008 through April 15, 2009. This tax settlement is the responsibility of the Breathitt County Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for Sheriff's Tax Settlements issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the Sheriff's office prepares the financial statement on a prescribed basis of accounting that demonstrates compliance with the modified cash basis, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the accompanying financial statement referred to above presents fairly, in all material respects, the Breathitt County Sheriff's taxes charged, credited, and paid for the period May 03, 2008 through April 15, 2009, in conformity with the modified cash basis of accounting.

In accordance with Government Auditing Standards, we have also issued our report dated September 28, 2009, on our consideration of the Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



To the People of Kentucky

Honorable Steven L. Beshear, Governor

Jonathan Miller, Secretary

Finance and Administration Cabinet

Honorable Jason Richardson, Breathitt County Judge/Executive

Honorable Ray Clemons, Breathitt County Sheriff

Members of the Breathitt County Fiscal Court

Based on the results of our audit, we present the accompanying comments and recommendations, included herein, which discusses the following report comments:

- The Sheriff Should Distribute 10% Add-On Fees On A Monthly Basis
- The Sheriff Had A Deficit of \$9,302 In His 2007 Tax Account
- The Sheriff's Office Lacks Adequate Segregation Of Duties

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", written in a cursive style.

Crit Luallen

Auditor of Public Accounts

September 28, 2009

BREATHITT COUNTY
RAY CLEMONS, SHERIFF
SHERIFF'S SETTLEMENT - 2008 TAXES

For The Period May 03, 2008 Through April 15, 2009

<u>Charges</u>	<u>County Taxes</u>	<u>Special Taxing Districts</u>	<u>School Taxes</u>	<u>State Taxes</u>
Real Estate	\$ 245,943	\$ 587,909	\$ 965,296	\$ 319,203
Tangible Personal Property	67,197	155,333	226,968	258,892
Fire Protection	4,821			
Franchise Taxes	65,460	148,445	224,614	
Additional Billings	47	111	201	60
Oil and Gas Property Taxes	9,427	22,534	40,815	12,235
Bank Franchises	27,052			
Penalties	2,889	6,802	10,952	3,897
Adjusted to Sheriff's Receipt	20	57	(8,018)	28
Gross Chargeable to Sheriff	422,856	921,191	1,460,828	594,315
<u>Credits</u>				
Exonerations	4,129	9,864	16,733	5,347
Discounts	4,462	10,409	16,539	8,576
Delinquents:				
Real Estate	19,397	45,884	76,330	24,912
Tangible Personal Property	695	1,606	2,296	7,925
Franchise Taxes	507	1,172	1,832	
Total Credits	29,190	68,935	113,730	46,760
Taxes Collected	393,666	852,256	1,347,098	547,555
Less: Commissions *	17,018	36,221	53,884	23,559
Taxes Due	376,648	816,035	1,293,214	523,996
Taxes Paid	375,536	814,364	1,283,391	522,782
Refunds (Current and Prior Year)	293	673	1,222	150
Due Districts or as of Completion of Audit	\$ 819	\$ 998	\$ 8,601	\$ 1,064

* and ** See Next Page.

The accompanying notes are an integral part of this financial statement.

BREATHITT COUNTY
 RAY CLEMONS, SHERIFF
 SHERIFF'S SETTLEMENT - 2008 TAXES
 For The Period May 03, 2008 Through April 15, 2009
 (Continued)

* Commissions:

10% on	\$	10,000
4.25% on	\$	1,783,477
4% on	\$	1,347,098

** Special Taxing Districts:

Library District	\$	272
Health District		440
Extension District		203
Soil Conservation		83
		<hr/>

Due Districts	\$	<u>998</u>
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BREATHITT COUNTY
NOTES TO FINANCIAL STATEMENT

April 15, 2009

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

The Sheriff's office tax collection duties are limited to acting as an agent for assessed property owners and taxing districts. A fund is used to account for the collection and distribution of taxes. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

B. Basis of Accounting

The financial statement has been prepared on a modified cash basis of accounting. Basis of accounting refers to when charges, credits, and taxes paid are reported in the settlement statement. It relates to the timing of measurements regardless of the measurement focus.

Charges are sources of revenue which are recognized in the tax period in which they become available and measurable. Credits are reductions of revenue which are recognized when there is proper authorization. Taxes paid are uses of revenue which are recognized when distributions are made to the taxing districts and others.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Deposits

The Breathitt County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

BREATHITT COUNTY
NOTES TO FINANCIAL STATEMENT
April 15, 2009
(Continued)

Note 2. Deposits (Continued)

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of April 15, 2009, all deposits were covered by FDIC insurance or a properly executed collateral security agreement. However, as of November 10, 2008, public funds were exposed to custodial credit risk because the bank did not adequately collateralize the Sheriff's deposits in accordance with the security agreement.

- Uncollateralized and Uninsured \$1,188,391

Note 3. Tax Collection Period

The real and personal property tax assessments were levied as of January 1, 2008. Property taxes were billed to finance governmental services for the year ended June 30, 2009. Liens are effective when the tax bills become delinquent. The collection period for these assessments was September 30, 2008 through April 15, 2009.

Note 4. Interest Income

The Breathitt County Sheriff earned \$393 as interest income on 2008 taxes. The Sheriff distributed the appropriate amount to the school district as required by statute, and the remainder was used to operate the Sheriff's office.

Note 5. Sheriff's 10% Add-On Fee

The Breathitt County Sheriff collected \$17,676 of 10% add-on fees allowed by KRS 134.430(3). This amount was used to operate the Sheriff's office.

Note 6. Advertising Costs And Fees

The Breathitt County Sheriff collected \$3,270 of advertising fees allowed by KRS 424.330(1) and KRS 134.440(2). The advertising fees were used to operate the Sheriff's office.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON
COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Jason Richardson, Breathitt County Judge/Executive
Honorable Ray Clemons, Breathitt County Sheriff
Members of the Breathitt County Fiscal Court

Report On Internal Control Over Financial Reporting And On
Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards

We have audited the Breathitt County Sheriff's Settlement - 2008 Taxes for the period May 03, 2008 through April 15, 2009, and have issued our report thereon dated September 28, 2009. The Sheriff prepares his financial statement in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Breathitt County Sheriff's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Breathitt County Sheriff's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Breathitt County Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However as discussed below, we identified a certain deficiency in internal control over financial reporting that we consider to be a significant deficiency.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the modified cash basis of accounting such that there is more than a remote likelihood that a misstatement of the entity's financial statement that is more than inconsequential will not be prevented or detected by the entity's internal control over financial reporting. We consider the deficiency described in the accompanying comments and recommendations to be a significant deficiency in internal control over financial reporting.

- The Sheriff's Office Lacks Adequate Segregation Of Duties



Report On Internal Control Over Financial Reporting And On
Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Internal Control Over Financial Reporting (Continued)

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statement will not be prevented or detected by the entity's internal control. Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we consider the significant deficiency described above to be a material weakness.

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Breathitt County Sheriff's Settlement - 2008 Taxes for the period May 03, 2008 through April 15, 2009, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations.

- The Sheriff Should Distribute 10% Add-On Fees On A Monthly Basis
- The Sheriff Had A Deficit of \$9,302 In His 2007 Tax Account

The Breathitt County Sheriff's responses to the findings identified in our audit are included in the accompanying comments and recommendations. We did not audit the Sheriff's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of management, the Breathitt County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

September 28, 2009

COMMENTS AND RECOMMENDATIONS

BREATHITT COUNTY
RAY CLEMONS, SHERIFF
COMMENTS AND RECOMMENDATIONS

For The Period May 03, 2008 Through April 15, 2009

STATE LAWS AND REGULATIONS:

The Sheriff Should Distribute 10% Add-On Fees On A Monthly Basis

KRS 134.430(3) states the Sheriff shall be entitled to an additional ten percent (10%) for all delinquent taxes collected from the time the ten percent (10%) fee becomes applicable through the sale of the tax claims. This fee shall be added to the total amount due and paid by the person paying the delinquent tax bill and then distributed to the Sheriff's fee account monthly. The Sheriff collected \$17,676 for 10% add-on fees for 2008 collections. The Sheriff paid the total amount collected to the fee account; however, he did not pay add-on fees to the fee account monthly, as required. We recommend the Sheriff pay all add-on fees monthly as required.

Sheriff's Response: 10% Add-on Fees will be distributed monthly to the fee account as required.

The Sheriff Had A Deficit of \$9,302 In His 2007 Tax Account

During audit procedures, we noted additional liabilities of \$2,036 due from the 2007 franchise account. On November 16, 2007, \$1,699 of 2006 funds was deposited into the 2007 franchise account. In October, 2008, the Sheriff paid \$1,849 out of the 2007 franchise account to the districts as instructed by the 2006 audit. Additionally, we noted a \$187 franchise bill collected and deposited on November 30, 2007 during the 2007 tax year that was included as a delinquent franchise bill. This franchise bill is included in the 2008 tax year and the funds collected will be allocated to the 2008 tax accounts. Based on the additional liabilities noted above, the 2007 tax year deficit of \$7,266 will be restated to \$9,302. This deficit was due to \$9,455 of undeposited receipts less \$153 of unidentified receipts that offset this deficit. This matter has been referred to the Attorney General for further investigation.

Sheriff's Response: Pending further investigation by the Attorney General.

INTERNAL CONTROL - SIGNIFICANT DEFICIENCY AND MATERIAL WEAKNESS:

The Sheriff's Office Lacks Adequate Segregation Of Duties

The Sheriff's office lacks adequate segregation of duties due to the responsibilities of recording, depositing, receiving, and reconciling cash being delegated to the same individual. The functions of receiving, recording, depositing and reconciling cash should be separated whenever possible in order to decrease the risk that errors, misstatements, and/or fraud will occur and go undetected. Since only one person performs most of these functions, there is no assurance that financial transactions are accurate, complete, and free of error/misstatement. We recommend the Sheriff segregate the duties of recording, depositing, and reconciling cash or implement and document compensating controls to offset this control deficiency. Examples of compensating controls include: the Sheriff comparing daily checkout sheet to the receipts ledger and bank deposit, reviewing bank reconciliations for accuracy, performing surprise cash counts, reviewing invoices prior to payment, and reviewing all financial reports. The Sheriff could document his review process by initialing reports and supporting documentation.

Sheriff's Response: Due to lack of funds, segregation of duties is not possible at this time.

Auditor's Reply: The compensating controls recommended above, would not require additional staff. The recommended compensating controls suggest the Sheriff personally review and compare the amounts per the checkout sheets, ledgers, reconciliations, and reports. Implementing and documenting these and other compensating internal controls are important to help prevent and detect any future errors, misstatements, and/or fraud.

